

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

---

VICTOR ALTHEUS DE PONCEAU

Plaintiff,

Civil Action No.  
5:09-CV-00605 (GTS/DEP)

vs.

UNITED STATES OF AMERICA, ET. AL.,

Defendants.

---

APPEARANCES:

VICTOR ALTHEUS DE PONCEAU  
Plaintiff, *pro se*  
Upstate Correctional Facility  
P.O. Box 2001  
Malone, New York 12953

DAVID E. PEEBLES  
U.S. MAGISTRATE JUDGE

ORDER

Plaintiff Victor Altheus DePonceau, a New York State prison inmate who is proceeding *pro se* and has filed an application to proceed *in forma pauperis*, commenced this action on May 26, 2009, asserting civil rights

claims pursuant to 42 U.S.C. § 1983. Dkt. No. 1.<sup>1</sup> The clerk has forwarded to me for review three letters from the plaintiff, filed on June 16, 2009, Dkt. No. 7, July 17, 2009, Dkt. No. 8, and August 26, 2009, Dkt. No. 9. In the first letter, Dkt. No. 7, plaintiff requests that the court order a criminal investigation of alleged conduct by various officials and employees of the New York Department of Correctional Services. It is well established that “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619, 93 S. Ct. 1146, 1149 (1973); *Peter v. Goord*, 2009 WL 2180580, at \* 7 (W.D.N.Y. July 22, 2009) (citing *Linda R.S.*). Accordingly, plaintiff’s request will be denied.

With respect to the other two letters, Dkt. Nos. 8 and 10, it is unclear what relief, if any, that the plaintiff is requesting. To the extent that plaintiff’s letter of July 17, 2009, Dkt. No. 8, could be construed as an attempt to supplement or amend his complaint, it is in improper form in that it fails to comply with Northern District of New York Local Rule 7.1(a)(4), which requires that such application be accompanied by a fully integrated, proposed new pleading, to supersede the plaintiff’s original complaint, if granted. Although no request for relief is apparent, to the

---

<sup>1</sup> Plaintiff’s application to proceed *in forma pauperis* remains pending.

extent such a request is found in Docket No. 10, it is denied.

WHEREFORE, it is hereby

ORDERED, that the plaintiff's request that the court order a criminal investigation (Dkt. No. 7) is DENIED; it is further

ORDERED, that the request of plaintiff set forth in Docket No. 8 and plaintiff's request for relief, if any, set forth in Docket No. 10 are both DENIED; and it is further

ORDERED, that the clerk serve a copy of this order upon the plaintiff in accordance with the local rules.



---

David E. Peebles  
U.S. Magistrate Judge

Dated: September 24, 2009